

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT



(PCT Article 36 and Rule 70)

REC'D 28 SEP 2004

WIPO PCT

Applicant's or agent's file reference 38990 JFW PCT1	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 02/02648	International filing date (day/month/year) 10.06.2002	Priority date (day/month/year) 10.06.2002
International Patent Classification (IPC) or both national classification and IPC H04L29/06		
Applicant CAPLIN SYSTEMS LIMITED et al		

1.	This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of 6 sheets, including this cover sheet.
	<input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of 5 sheets.
3.	This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 08.01.2004	Date of completion of this report 24.09.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Günther, S Telephone No. +49 89 2399-6962 

**INTERNATIONAL PRELIMINARY
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I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-7 as originally filed

Claims, Numbers

1-27 received on 26.07.2004 with letter of 26.07.2004

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-27
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-27
Industrial applicability (IA)	Yes: Claims	1-27
	No: Claims	

2. Citations and explanations

see separate sheet

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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

D1: US-A-6 003 030

D2: WO 01/13228

D3: US-A-6 055 574

2. The subject-matter of claim 1 can not be considered as involving an inventive step, Article 33(3) PCT, for the following reasons.

2.1. Document D1 discloses with regard to most of the features of method claim 1 (the references in parentheses applying to this document):

a method of providing a service to a client from one of a plurality of servers, each of the servers being capable of providing the service to the client and each of the servers being associated with a service address common to all of the servers (column 1, lines 22-25), the method comprising the steps of:

- receiving a request for the service from the client, the request specifying the common service address (column 1, lines 25-26);
- in response to the request, connecting the client to one of the plurality of servers (column 1, lines 40-43).

2.2. The subject-matter of claim 1 in the present application differs from the disclosure in document D1 in receiving, at the client, information identifying each of the plurality of servers from the server to which the client is connected and selecting, at the client, one of the plurality of servers as the server to be used to provide the service to the client.

2.3. Receiving information identifying a plurality of servers and selecting, at the client, one of the plurality of servers is a common measure in data networks for offering services to clients by a plurality of servers. This measure is known, e.g., from receiving a list of mirror sites at one web page and selecting one of the sites, see D2 (column 3, lines 62-64). Taking such a measure is supported by a hint in D1 (column 1, lines 43-50).

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3. The subject-matter of independent claim **15 and 21** can also not be considered as involving an inventive step, Article 33(3) PCT, for the following reasons.
 - 3.1. The subject-matter of apparatus claim **15** entirely corresponds to the non-inventive subject-matter of method claim **1**.
 - 3.2. The subject-matter of apparatus claim **21** corresponds to the non-inventive subject-matter of method claim **1**, and, in addition, apparatus claim **21** mentions means configured to receive information relating to each of the plurality of servers, which is also disclosed in D1 (column 1, lines 35-39).
4. The subject-matter of independent claim **23** is not considered as involving an inventive step, Article 33(3) PCT.
 - 4.1. The subject-matter of independent apparatus claim **23** corresponds to the subject-matter of method claim **1** and apparatus claim **21** which is known from D1, see 2.1. and 3.2.
 - 4.2. The subject-matter of apparatus claim **23** differs from the disclosure in document D1 in means for communicating information between the servers so that each of the plurality of servers maintains information relating to all of the servers, means for sending server information to the client from the server to which the client is connected, said server information identifying each of the plurality of servers to the client, and means for selecting, at the client, one of the plurality of servers as the server to be used to provide the service to the client.
 - 4.3. The problem to be solved by the invention is to **establish loadsharing** between a plurality of servers and to **offer services to clients** by a plurality of servers.
 - 4.4. Communicating information between the servers so that each server maintains information relating to all servers is a common measure, which is known, e.g., from D3 (Fig. 7). Taking this measure is supported by a link in D1 (column 1, lines 59-61). Receiving information identifying a plurality of servers and selecting, at the client, one of the plurality of servers is another common measure, see 2.3.

The subject-matter of claim **23** consists merely in the juxtaposition of the known features. The combined features do not mutually support each other in their effects to such an extent that a new technical result is achieved; each known

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feature functioning in its normal way and not producing any non-obvious working interrelationship.

5. The additional features of the dependent claims do not add anything inventive to the independent claims because the features are either known from the above cited prior art (delivery of and server selection based on status, number of users, grouping of servers; connection re-attempts) or are common measures (real-time servers, random selection, DNS round-robin algorithm).
- 7.1. The independent claims are not in the two-part form, Rule 6.3(b) PCT.
 - 7.2. The features of the claims are not provided with reference signs, Rule 6.2(b) PCT.
 - 7.3. The relevant background art is not mentioned in the description, nor are these documents identified therein, Rule 5.1(a)(ii) PCT.